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REMARKS

In the April 17th Office Action, the Examiner rejected Claims 34-39 under 35 USC §101 because the "claims lack a recitation of a practical application for the equation" of step j of claim 1 in the case of Claims 34 and 37, step iii of claim 2 in the case of Claims 35 and 38, and step v of claim 4 in the case of Claims 36 and 39. By the above amendments each of these claims has been amended to positively recite that the application of these equations is to determine "the volume of fluid in the peritoneal cavity of a subject," which is unquestionably a practical application of the equations. The Examiner is respectfully requested to contact the undersigned attorney if this language is not acceptable to the Examiner so that acceptable language can be worked out.

The Examiner also rejected independent Claim 12 and its dependent Claims 13-20 under 35 USC §112, ¶2, as allegedly being indefinite due to the reference in Claim 12 to "said flowing of dialysis fluid [through a subject's peritoneal cavity] being capable of causing the accumulation of ultrafiltrate from the subject in the peritoneal cavity." According to the Examiner, "[i]t cannot be determined from the claim whether the method includes accumulation of ultrafiltrate or flowing that merely is capable of accumulating ultrafiltrate, but no ultrafiltrate is accumulated."

The "capable of" language was included in Claim 12 to incorporate in the claim the importance of controlling flow of dialysis fluid through the peritoneal cavity because such flowing is "capable of causing the accumulation of ultrafiltrate from the subject in the peritoneal cavity" which can be dangerous to the subject (see, for example, applicants' specification at page 1, lines 27-29, and page 2, lines 13-15). It was intended to provide context for the subject matter of the claim and not to be a requirement for, or an exclusion of, accumulation. Of course, this context is also provided by applicants' specification and thus by the above amendment, the "capable of" language has been deleted from independent Claim 12.

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In view of the foregoing, applicants believe that this application is now in condition for allowance. Accordingly, reconsideration and the issuance of a notice of allowance for the application are respectfully requested.¹

Respectfully submitted,

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¹ At various points in the Reasons for Allowance, the Examiner refers to "volume" as opposed to "volume of fluid." Applicants assume that this is merely a typographical error since at other points in the Reasons for Allowance the Examiner correctly refers to "volume of fluid," which is the terminology used in applicants' claims.